

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Luqris Thompson,

Case No.: 2:14-cv-01286-JAD-NJK

Plaintiff

V.

George Libbey,

Defendant

Order Dismissing and Closing Case

[ECF No. 123]

On September 26, 2018, the court ordered Plaintiff Luqrис Thompson to update his address as required by Local Rule IA 3-1 and warned him that his failure to do so by October 10, may result in the dismissal of this case.¹ Thompson has not updated his address, mail to continues to be returned undeliverable, and Magistrate Judge Nancy J. Koppe recommends dismiss his case for failure to comply with this court’s order.² “[N]o review is required of istrate judge’s report and recommendation unless objections are filed.”³ Having reviewed &R, I find good cause to adopt it, and I do.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.⁴ A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a

¹ ECF No. 118.

2 ECF No. 123.

³ *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

⁴ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

1 court order, or failure to comply with local rules.⁵ In determining whether to dismiss an action
2 on one of these grounds, the court must consider: (1) the public's interest in expeditious
3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
5 availability of less drastic alternatives.⁶

6 The first two factors—the public's interest in expeditiously resolving this litigation and
7 the court's interest in managing its docket—weigh in favor of dismissing this case. The third
8 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption
9 of injury arises from an unreasonable delay in taking action ordered by the court or prosecuting
10 an action.⁷ A court's warning to a party that his failure to obey the court's order will result in
11 dismissal satisfies the fifth factor's "consideration of alternatives" requirement,⁸ and that
12 warning was given here.⁹ The fourth factor—the public policy favoring disposition of cases on
13 their merits—is greatly outweighed by the factors favoring dismissal. As the magistrate judge
14 correctly summarized, in this case

15 Plaintiff's failure to update his address and his disobedience of a
16 Court order are abusive litigation practices that have interfered
17 with the Court's ability to hear this case, delayed litigation,
disrupted the Court's timely management of its docket, wasted

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19 ⁵ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
20 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
21 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
22 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
23 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

24 ⁶ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
Ferdik, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

25 ⁷ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

26 ⁸ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

27 ⁹ ECF No. 123.

judicial resources, and threatened the integrity of the Court's orders and the orderly administration of justice. Sanctions less drastic than dismissal are unavailable because Plaintiff has refused to comply with the order of this Court notwithstanding the Court's warning that case-dispositive sanctions may be imposed. Moreover, dismissal is expressly contemplated in the governing rule.¹⁰

Accordingly, with good cause appearing and no reason to delay, IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation [ECF No. 123] is **ADOPTED** in its entirety.

IT IS FURTHER ORDERED that THIS CASE IS DISMISSED without prejudice. The Clerk of Court is directed to ENTER JUDGMENT ACCORDINGLY and CLOSE THIS CASE.

Dated: November 7, 2018


U.S. District Judge Jennifer A. Dorsey

10 *Id.*